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6 HSBC BANK USA, NATIONAL
7 ASSOCIATION, AS TRUSTEE

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10 No. C 09-05646 WHA

11 Plaintiff,

12 **ORDER TO SHOW CAUSE**

13 v.

14 LUIS AND KARINA ABRECKOV,

15 Defendants.

16 _____ /
17 Defendants Luis and Karina Abreckov have filed a motion for injunctive relief against
18 plaintiff HSBC Bank USA. Before addressing defendants' motion, a predicate issue must be
19 resolved. Defendants removed this action for unlawful detainer from Alameda County Superior
20 Court. Plaintiff's complaint asserted claims for possession of real property and damages under
21 California law but did not allege any federal claims. Although defendants asserted in their
22 notice of removal that "this Court has Original Jurisdiction founded on a claim or right arising
23 under the U.S. Constitution violative of our Civil Rights arising from the same action in a State
24 Court," it is not enough for removal purposes that a federal question may arise during the course
25 of litigation in connection with some defense or counterclaim. "[A] defendant may not remove
26 a case to federal court unless the *plaintiff's* *complaint* establishes that the case 'arises under'
27 federal law." *Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10
28 (1983) (emphasis in original; superceded by statute on other grounds).

1 Defendants are therefore **ORDERED TO SHOW CAUSE** why this action should not be
2 remanded back to state court for lack of removal jurisdiction. Defendants must file a written
3 response **ON OR BEFORE DECEMBER 24, 2009**. Plaintiff may also file a submission addressing
4 this issue by the same date.

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6 **IT IS SO ORDERED.**

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8 Dated: December 9, 2009.

WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

